Applicants: Gillett et al
U.S.S.N.   09/991,006
Filing Date: November 21, 2001
Atty. Docket No.: EMC-04-052

REMARKS

In Response to the Office Action mailed July 9, 2004, applicants respectfully request reconsideration. In the Office Action, claims 5, 11, 16 and 23 were objected to and claims 1-24 were rejected. By this amendment, claims 5, 11, 16 and 23 have been amended. Claims 1-24 remain pending in this application.

Objection to Claims

Claims 5, 11, 16 and 23 were objected to because of informalities. Claims 5, 11, 16 and 23 have been amended, thereby rendering the objections moot.

Rejection of Claims Under 35 U.S.C. §102

Claims 1-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Lumelsky et al. (U.S. Patent No. 6,460,082). Regarding independent claim 1, the examiner states that Lumelsky discloses a system for delivering content over a data network comprising a data storage device, a server process capable of monitoring the data network for responding to a request to serve selected content over the data network and a file system capable of communicating with the server process and capable of processing the request to identify meta-data associated with the selected content and being representative of a level of service to be provided with the selected content. This rejection is respectfully traversed, as Lumelsky does not teach every element recited in independent claim 1, as is required under 35 U.S.C. §102.

Lumelsky teaches a system for resource configuration across distributed media services. This system uses "service signatures" which is what Lumelsky calls meta-data, to represent a resource allocation commitment for a server (Col. 5, lines 13-15). Service signatures are implemented to customize each server (referred to by Lumelsky as a "meta-resource", Col. 5, lines 30-31) (Col. 5, lines 43-49). By customizing each server with a service signature that represents a resource allocation commitment, the system enables heterogeneous servers to be configured as homogeneous servers (See Abstract). This enables the system to compensate for

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differences between actual resource requirements found during the provisioning of a media service and the resource profile associated with a service unit (Col. 7, lines 58-61). The meta-data or service signature is utilized by Lumelsky to determine whether a particular server is capable of handling certain requests. Each service signature for a particular requested service is compared with resources at a particular server to determine whether a particular request can be serviced, i.e., if the server is capable, has the resources, is willing to service the request and has the necessary capability. The presence of the service signature provides the ability to determine the willingness of the server in accepting a request. Specifically, after the request arrives at the server, the server must decide whether to service the request or not. This decision is supported by the meta-data in the server (Col. 15, lines 18-40). Accordingly, in the Lumelsky system, the meta-data is associated with particular servers to enable the system to determine whether a particular server is capable of servicing a particular request. If it is, it services the request, if not, the request fails (See Fig. 8(a)).

Independent claim 1 recites a system for delivering content over a data network, comprising:

a data storage device for storing content to be delivered over the data network,

a server process capable of monitoring the data network for responding to a request to serve selected content over the data network, and

a file system capable of communicating with the server process and capable of processing the request to identify meta-data associated with the selected content and being representative of a level of service to be provided the selected content.

Lumelsky does not teach or suggest levels of service at which requests are handled. As set forth above, Lumelsky uses meta-data to determine whether particular servers are capable of servicing particular requests. The meta-data in Lumelsky is not associated with selected content to be served and does not represent a level of service which is to be provided to the selected content. Lumelsky does not include a file system capable of communicating with the server process and capable of processing the request to identify meta-data associated with the selected content and being representative of a level of service to be provided the selected content.

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Accordingly, since Lumelsky does not teach the invention recited in independent claim 1,

independent claim 1 is allowable over Lumelsky, and the rejection under 35 U.S.C. §102(e)

should be withdrawn.

Claims 2-21 depend from independent claim 1 and are allowable for at least the same

reasons as independent claim 1.

Independent claim 22 recites a method for serving streams of content at selected levels of

service, comprising

listening on a data network for a request for a stream of selected content,

executing a process capable of identifying a file associated with the selected content and

capable of identifying meta-data associated with the file and having information representative of

one of a plurality of levels of service to provide a stream of the selected content, and

controlling access by a streaming server process to a system resource employed for

processing the request as a function of the level of service associated with the selected content.

Lumelsky does not teach or suggest a plurality of levels of service at which requests are

handled. As set forth above, Lumelsky uses meta-data to determine whether particular servers

are capable of servicing particular requests. The meta-data in Lumelsky is not associated with

selected content to be served and does not represent a level of service which is to be provided to

the selected content. Lumelsky does not execute a process capable of identifying a file

associated with the selected content and capable of identifying meta-data associated with the file

and having information representative of one of a plurality of levels of service to provide a

stream of the selected content.

Claims 23 and 24 depend from independent claim 22 and are allowable for at least the

same reasons as independent claim 22.

Based on the foregoing, applicants respectfully assert that claims 1-24 are allowable over

the art of record and respectfully request that a timely Notice of Allowance be issued in this
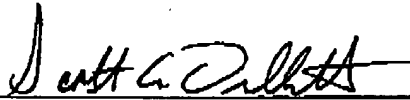
application.

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In the event the Patent Office deems personal contact desirable in disposition of this matter, the Office is invited to contact the undersigned attorney at (508) 293-7835.

Please charge any fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

Dated: 11/9/04

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